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TALKING POINTS FROM THE NIE ON LAW OF THE SEA
FOR THE 21 January NSC MEETING

--If a Comprehensive Treaty on the terms of the present Draft Convention were to enter into force for the United States, its effects on private seabed mining would be:

- Provisions for the mandatory transfer of technology to the Enterprise, the mining subsidiary of the proposed International Seabed Authority (ISA), would deter investments by some US seabed miners and their suppliers.
- Corporate access to seabed mine sites could be based on political decisions reached by the ISA's Legal and Technical Commission which would be dominated by developing countries.
- Production control on the output of nickel and other seabed metals are not likely to curb production, but these limitations could create a scrambling for available production quotas in the early years of seabed mining.
- Revenue sharing with the ISA probably would not prove too burdensome to the miners if they could convince their governments to treat such payments as tax credits. Failing this, some firms might be deterred from entering the industry.
- Armed with prospected minesites, state-of-the-art technology, and other financial advantages, the Enterprise could become a formidable competitor for private seabed interests.
- Provisions for a future Review Conference and the entry into force of amendments for all parties, upon approval and ratification by two-thirds of the states, could drastically alter the mining system and freeze out private enterprise.
- A cumbersome, and perhaps ineffective, system of governance for the Seabed Authority would deprive the United States and other industrial democracies of a meaningful voice in the establishment of policies and a taking of some decisions within the ISA.

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-- A treaty's effect on coastal state claims over navigation would be:

- To inhibit, for some time, the large-scale expansion of geographic claims--a development viewed as highly beneficial by all the maritime powers.
- The provisions for a 12-mile limit for the territorial sea and a 200-mile limit for the Exclusive Economic Zone (EEZ) would satisfy the present needs of most coastal states.
- All or most states would comply with the treaty provisions for unimpeded navigation and overflight in straits and archipelagoes.
- The expansion of all coastal state functional claims within the 200-mile EEZ might not be stemmed because the treaty language on the juridical status of the zone is somewhat cloudy.
- Coastal states will not be allowed to require prior notification and authorization for warship transit of their territorial seas or to exercise control over military devices placed on their continental shelves

-- A US walkout of the Law of the Sea Conference before the next session would:

- Not be joined by the other major industrial countries.
- Likely move the Conference to adopt the Draft Convention as is, but ultimate ratification by the other major industrial states would not be certain.
- Allow the USSR to milk the event for its propaganda value, but Moscow would not gain any real political capital as a result.
- Enable the developing countries to raise the issue again and again as proof of the United States unresponsiveness to the Third Worlds' "just an equitable" demands for a "new international economic order."
- After the rhetoric, not impact on the continuing vital economic and political ties between the developing countries and the United States.
- Ripple relations with certain defense allies and industrial partners, but long term relations would not be impaired.